

Introduced by Senator Bowen

February 22, 2002

An act to add Section 17508.5 to the Business and Professions Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 2082, as introduced, Bowen. Cigarettes: advertising and sales.

Existing federal law requires specified persons who for profit sell or transport cigarettes in interstate commerce into a state that taxes the sale or use of cigarettes to provide the state taxing authority a memorandum or copy of each invoice. Existing state law prohibits false and deceptive advertising and makes a violation of those provisions a crime.

This bill would require a person who advertises on the Internet to sell cigarettes in California and who is subject to the above federal law, to conspicuously disclose in the advertisement that a purchaser in California is responsible for specified California taxes and the minimum amount of those taxes. The bill, in establishing advertising requirements for the Internet sale in California of cigarettes, would create a new crime, and thus would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 17508.5 is added to the Business and Professions Code, to read:

17508.5. (a) A person who advertises on the Internet to sell cigarettes in California and who is subject to the provisions of Chapter 10A (commencing with Section 375) of Title 15 of the United States Code shall conspicuously disclose in the advertisement all of the following:

(1) A purchaser who buys cigarettes that are shipped into California is responsible for paying on each purchase the taxes imposed under the California Cigarette and Tobacco Products Tax Law (Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code) and the California Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code).

(2) Pursuant to federal law, the person selling or transferring the cigarettes is required to file with the California State Board of Equalization a memorandum or copy of the invoice for each and every shipment of cigarettes made into California.

(3) Next to the advertised price, the amount of the California cigarette tax that a purchaser is required to pay for the quantity of cigarettes provided at the advertised price and the minimum sales or use tax that a purchaser is required to pay on that advertised price. The amount of each tax shall be separately stated.

(b) “Internet,” for the purposes of this section, has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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